

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Crl. Misc. No. M-24349 of 2017 (O&M)
Date of decision : 12.03.2018**

Jagdeep Singh

..... Petitioner

versus

State of Punjab & Anr.

... Respondents

CORAM:- HON'BLE MS. JUSTICE ANITA CHAUDHRY

**Present: Mr. Rahul Rampal, Advocate
for the petitioner.**

Ms. Mahima Yashpal, AAG Haryana.

**Mr. Anish Batra, Advocate
for respondent No.2.**

ANITA CHAUDHRY, J(ORAL)

The petitioner is facing trial in FIR No. 16 dated 11.09.2016, registered under Sections 294, 354-A and 506 IPC, Police Station Meharban, District Ludhiana.

The examination-in-chief of the complainant was recorded. She was partly cross-examined by the defence counsel on 22.02.2017. Her further cross-examination was deferred to enable her to get some documents which she had referred in her cross-examination. She was directed to bring the applications.

On 23.03.2017 when she appeared for her remaining cross-examination the trial Court recorded her examination-in-chief again and the documents were exhibited and her cross-examination was deferred on account of non-availability of defence counsel.

The accused filed an application seeking rejection of that statement. His grievance is that once the examination-in-chief had been recorded and cross-examination was going on, the documents could not be introduced by recording the examination-in-chief again.

The trial Court dismissed the application vide order dated 09.05.2017, which has been challenged in the instant petition.

I have heard learned counsel for the parties and have perused the paper-book.

It is apparent that the examination-in-chief of the complainant (PW2) had already been recorded. She was under cross-examination by the defence counsel when she admitted in cross-examination that she had given 100 applications to the police, her cross-examination was deferred and she was directed to bring the applications. Though the statement was left in the midst of her cross-examination, her chief examination was again recorded by the Court and documents i.e. applications alleged to have been filed by the complainant before the police authorities were exhibited. The cross-examination was deferred as the defence counsel was not available. Once the examination-in-chief had been recorded, the trial Court could not have recorded her chief again nor she could be given opportunity to bring on records documents which she wanted. The trial Court ignored the legal principles. The Court can permit leading of evidence at any stage, but there is a procedure. No application had been filed by the State or the complainant to bring additional evidence.

Section 137 & 138 of the Evidence Act lays down how evidence is to be recorded and order of examination. No permission was sought to examine the witness. She had to justify why it was

required and why it had become essential. The trial Court fell in error by dismissing the application.

The petition is allowed and the impugned order dated 09.05.2017 is set aside. The trial Court will ignore the statement of the complainant and the documents exhibited on 23.03.2017 and recall the witness for remaining cross-examination.

March 12, 2018
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(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned	Yes/ No
Whether reportable	Yes/ No